



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Edward McCrink; Davor Raos
Application No:	10/519,910
Filed:	December 30, 2004
Title:	SEAM WELDED AIR HARDENABLE STEEL TUBING

SUBMISSION OF STATEMENT UNDER 37 C.F.R. § 3.73(b)

Box:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified Application names Edward J. McCrink and Davor Raos as the inventors. Edward McCrink has assigned any and all interest to the invention and Application to KVA, Inc. a Nevada corporation by prior assignment.

A dispute had arisen between KVA, Inc., a Nevada corporation, and inventor Davor Raos who was employed by KVA, Inc. to work on the invention described and claimed in the above-identified Application. This dispute was resolved by the Court in the Supreme Court of California, County of San Diego, North County Division, in the case stylized *KVA, Inc. v. Davor Raos*, Case No. GIN045000.

The Court has now issued a Final Judgment ruling that the invention described in the above-identified Application is owned entirely by KVA, Inc. A copy of the Court's Final Order and Judgment is attached to the Statement under 37 C.F.R. § 3.73(b) submitted herewith.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David G. Duckworth". The signature is fluid and cursive, with a large initial "D" and a stylized "W".

David G. Duckworth
Registration No. 39,516
Attorney for Applicant
Telephone: (949) 724-1255

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Assignor Owner: **Edward J. McCrink; Davor Raos**Application No./Patent No.: **10/519,910**Filed/Issue Date: **December 30, 2004**Entitled: **SEAM-WELDED AIR HARDENABLE STEEL TUBING****KVA, Inc.**, a **Nevada corporation**

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at 16700, Frame 0634, or a true copy of the original is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.


Signature

April 3, 2007

Date

David G. Duckworth

(949) 724-1255

Printed or Typed Name

Telephone number

Attorney for Applicant

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

F I L E D

Clerk of the Superior Court

MAR 23 '07

By: PATRICIA LEAPART, Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION, VISTA REG. CTR.

KVA, INC., a Nevada corporation,

Plaintiff,

vs.

DAVOR RAOS, an individual,

Defendants.

Case No.: GIN045000

ASSIGNED FOR ALL PURPOSES TO:
JUDGE MICHAEL B. ORFIELD

~~REVISED PROPOSED~~
ORDER AND JUDGMENT

Complaint Filed: June 15, 2005
Trial Date: December 19, 2006

Trial in this matter was scheduled to commence on December 19, 2006 in Department 28 of the above entitled Court before the Honorable Michael B. Orfield. Plaintiff KVA, Inc. ("KVA") appeared ready for trial through its counsel of record, J. Scott Russo, of the Law Offices of J. Scott Russo, A Professional Corporation and David G. Duckworth, of Drummond and Duckworth. Defendant Davor Raos ("Raos") failed to appear without reasonable excuse and the Court struck Raos' Answer to KVA's Complaint, entered Raos' Default, and initially ordered a judgment prove-up hearing by declaration on January 12, 2007 at 2:30 p.m., pursuant to California Code of Civil Procedure Sections 585 and 586. The prove-up hearing was rescheduled for March 23, 2007 at 1:30 p.m..

Having considered the Declarations of Edward McCrink, Brian H. Kleiner, PhD., David G. Duckworth, and the Supplemental Declaration of David G. Duckworth, the files and records of the Court, and the argument of KVA's counsel, the Court finds as follows:

~~PROPOSED~~ ORDER AND JUDGMENT

Exhibit

"A"

1. Raos was an employee of KVA from 1994 to January 2005 and was hired to invent and perform research and development for KVA relating to steel tubing. During his employment with KVA, patent protection was applied for the following inventions that Raos worked on for KVA pertaining to steel tubing:

- a. Seam Welded Air Hardenable Steel Tubing as described in U.S. Patent Application No. 10/519,910; International Patent Application No. PCT/US02/20888; European Patent Application 02807571.1; Hong Kong Patent Application No. 06100480-1; Japanese Patent Application No. 2004-517485; and Korean Patent Application No. 2004-7021510;
- b. Dual Seam-Welded Air Hardenable Steel Tubing and Structural Members described in U.S. Patent Application No. 11/031,328; and
- c. Skinned Structures of Air Hardenable Steel described in U.S. Patent Application No. 10/521,426.

Collectively, the "Tubing Technology" and the "Patent Applications".

2. The Court is making no finding regarding inventorship. Regardless of whether Raos was or was not an inventor or co-inventor of any part of the Tubing Technology or any of the claims set forth in the Patent Applications, Raos' involvement with the Tubing Technology was as an employee of KVA while performing his job responsibilities for KVA. Raos was hired to devote his time to the development of the Tubing Technology and was successful in doing so during the term of his employment. In accordance with California Labor Code § 2860, *Standard Parts Co. v. Peck*, 264 U.S. 52, 59 - 60 (1924) and *Treu v. Garrett Corp.* 264 Cal.App.2d 432, 436 (1968), by operation of law, Raos has no right or claim of ownership in the Tubing Technology or the Patent Applications, which all belong to Raos' employer, KVA.

3. No agreement was reached between KVA and/or Edward McCrink on the one hand and Raos on the other hand regarding Raos having an ownership interest in KVA.

4. Davor Raos has no interest, and has no right to acquire an interest, in KVA.

IN ACCORDANCE WITH THESE FINDINGS, JUDGMENT IS ENTERED AS

1 FOLLOWS:

- 2 1. Judgment is entered in favor of Plaintiff KVA and against Davor Raos;
- 3 2. Plaintiff KVA is the owner of all right, title and interest, and Davor Raos has no
- 4 ownership, right, title or interest in following inventions, corresponding patent applications and
- 5 patents if and when they issue:
- 6 a. Seam Welded Air Hardenable Steel Tubing as described in U.S. Patent
- 7 Application No. 10/519,910; International Patent Application No.
- 8 PCT/US02/20888; European Patent Application 02807571.1; Hong Kong
- 9 Patent Application No. 06100480-1; Japanese Patent Application No. 2004-
- 10 517485; and Korean Patent Application No. 2004-7021510;
- 11 b. Dual Seam-Welded Air Hardenable Steel Tubing and Structural Members as
- 12 described in U.S. Patent Application No. 11/031,328; and
- 13 c. Skinned Structures of Air Hardenable Steel as describe in U.S. Patent
- 14 Application No. 10/521,426).
- 15 3. If so required by a United States, International or foreign patent agency to affect
- 16 the assignment of his claimed rights in the aforementioned inventions, patent applications and
- 17 patents if and when they issue, Davor Raos shall execute a written assignment assigning all
- 18 rights, title and interest in the above identified inventions to KVA;
- 19 4. Davor Raos has no interest in KVA and no right to acquire an interest in KVA;
- 20 and
- 21 5. KVA is awarded costs of suit against Davor Raos in the sum of
- 22 \$ 11,711.77

23 DATED: March 23, 2007

24 **MICHAEL B. ORFIELD**
25 HONORABLE MICHAEL D. ORFIELD
26 JUDGE OF THE SUPERIOR COURT

27 RAFiles\KVA, INC\w. Raos\PLEADINGS\Judgment.doc